

REMARKS

The remarks and the accompanying amendments respond to the Office Action mailed August 11, 2004 (hereinafter referred to as the "Office Action"). The three month shortened statutory period for response expires today on November 12, 2004.

The Office Action rejects all of the pending claims 1-14 either under 35 U.S.C. 102(e) as being anticipated by United States patent number 6,289,220 issued to Spear (hereinafter referred to as "Spear"), or under 35 U.S.C. 103(a) as being unpatentable over Spear in view of other reference(s).

In Spear, the mobile station transmits the results of measurements to the serving BTS. The serving BTS will forward the measurements to either the RNC or the MSC. Then, the RNC or MSC may initiate handoff of the mobile handset's call session to the neighboring cell. Thus, the mobile station does not determine to which BTS the mobile station is to be connected.

In stark contrast, each of the remaining independent claims 1, 7 and 13 (as amended) each recite that the mobile station determines "to which base stations the mobile station is to be connected in order to satisfy a downlink receiving quality desired by the mobile station". The other cited art also does not teach this feature. Accordingly, the art of record (even if combined) does not anticipate teach, or suggest the claims as amended.¹ Claims 3, 9 and 14 are further not unpatentable since they each recited a specific "quality control means", which are also not taught or suggested by the cited art.

Accordingly, the pending claims are allowable of the cited art, and thus reconsideration and favorable action are respectfully requested. In the event that the Examiner finds remaining

¹ It was not necessary in order to fully respond to the Office Action to argue against the combinations of the references. Accordingly, such lack of arguments against combination should not be deemed as acquiescing that the combinations are appropriate. Applicants reserve the right to argue against the combination should this become required by future office action.

impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this 12th day of October, 2004.

Respectfully submitted,



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